

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

GREGORY STEWART,	:	Case No. 1:07CV659
	:	
	:	
Plaintiff,	:	
	:	
v.	:	JUDGE KATHLEEN M. O'MALLEY
	:	
MICHAEL J. ASTRUE,	:	<u>ORDER</u>
Commissioner of Social Security,	:	
	:	
Defendant.	:	

The Commissioner of Social Security denied social security benefits to the Claimant, Gregory Stewart (“Stewart”), in the above-captioned case. Stewart sought judicial review of the Commissioner’s decision, and this Court referred the case to Magistrate Judge David S. Perelman for preparation of a Report and Recommendation (“R&R”) pursuant to Local Rule 72.2(b)(1) and 28 U.S.C. § 636(b)(1)(B). Both parties filed briefs in support of their respective positions. (ECF Docs. 14 and 15.) The Magistrate Judge then submitted his R&R on December 14, 2007, recommending that the Court vacate the Administrative Law Judge’s (“ALJ”) decision and remand for further proceedings on the issue of whether Stewart’s “mental/emotional status” constitutes a “severe impairment” for purposes of 20 C.F.R. § 416.920(a)(4)(ii). (ECF Doc. 16 at 5.) Stewart did not object to the Magistrate Judge’s R&R, and the Defendant filed a response to the R&R specifically stating that he would not object to the R&R. (ECF Doc. 17.)

The Court has reviewed the Magistrate Judge’s R&R, *de novo*. The Court agrees with the Magistrate Judge’s conclusions – most importantly, that the ALJ erred in concluding that the evidence of mental illness Stewart presented does not satisfy the *de minimus* standard for “severe

impairment.” (See ECF Doc. 16 at 4.) Though the Court might articulate its conclusions somewhat differently, because neither party has objected to the Magistrate Judge’s R&R, further explanation of the Court’s reasoning is not required. *Tuggle v. Seabold*, 806 F.2d 87, 92-93 (6th Cir. 1986).

Accordingly, the Court **ADOPTS** the Magistrate Judge’s R&R, thus **REVERSING** the Commissioner of Social Security’s decision and **REMANDING** the case for further proceedings not inconsistent with this opinion.

IT IS SO ORDERED.

Date: April 15, 2008

s/Kathleen M. O’Malley
KATHLEEN MCDONALD O’MALLEY
UNITED STATES DISTRICT JUDGE